



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,398	07/17/2003	Joseph Carr Meyers	2020913(FGT1689)	1397

28549 7590 04/25/2005

KEVIN G. MIERZWA
ARTZ & ARTZ, P.C.
28333 TELEGRAPH ROAD, SUITE 250
SOUTHFIELD, MI 48034

EXAMINER

BEHNCKE, CHRISTINE M

ART UNIT	PAPER NUMBER
----------	--------------

3661

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,398

Applicant(s)

MEYERS ET AL.

Examiner

Christine M. Behncke

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-26, 28 and 29 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-7, 27, 30, 32 and 33 is/are rejected.
- 7) ☒ Claim(s) 3, 4 and 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/1/04 and 8/28/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the application filed 17 July 2003, in which claims 1-33 were presented for examination.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figure 4, element No. 102. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: The cross-reference to related applications must be updated to include the application number of the continuation-in-part of U.S. Application 10/608909.

Appropriate correction is required.

Claim Objections

4. Claim 28 is objected to because of the following informalities:
the following term lacks antecedent basis: "the roll control system";
the following term "a small minimum" specifically the "small" limitation is not readily understood, and does not serve to further clarify the other limitations of the claim.

Appropriate correction is required.

Oath/Declaration

5. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: The applicant failed to claim the present application as a continuation-in-part of U.S. Application 10/608909.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Woywod et al., US Patent No. 6,366,844.

7. **(Claim 1)** Woywod discloses a method of controlling an automotive vehicle comprising: detecting a potential for a wheel lift (Column 3, lines 59-67); determining a wheel lift pressure request to determine wheel lift (Column 3, lines 59-67 and Column 4, lines 3-11); generating a roll control pressure request (critical transverse acceleration detection, Column 4, line 47-Column 5, line 18); and suppressing the wheel lift pressure request in response to the roll control pressure request (Column 4, line 47-Column 5, line 18, braking strategy to counter the critical transverse acceleration is given priority over wheel lift detection and the braking strategy is adjusted accordingly).

8. **(Claim 2)** Woywod further discloses wherein determining a wheel lift pressure request comprises determining a wheel lift pressure request to determine wheel lift for a first wheel on a hydraulic circuit (Column 3, lines 59-67 and Column 5, lines 38-42).

9. **(Claim 7)** Woywod further discloses wherein discontinuing suppressing when the vehicle is grounded (Figure 5).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woywod et al., in view of Yamada et al., US Patent No. 6,315,373.

Woywod et al. discloses the method previously discussed but does not explicitly disclose that the suppression discontinues below a second threshold or during a stable roll motion.

11. **(Claim 5)** However, Yamada et al. does teach that when a roll control pressure request is below a second threshold, the previous suppression of braking is discontinued (Abstract).

12. **(Claim 6)** Further, Yamada et al. teaches discontinuing the suppression during a stable roll motion (Abstract, a stable roll motion would naturally occur below the second threshold).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of Woywod with the teachings of Yamada because it

would increase safety and system costs to incorporate more subtle exit strategies from the roll control system when the critical event has been rectified.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 27, 30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Semsey, US Patent No. 6,176,555.

14. **(Claim 27)** Semsey discloses a method of controlling an automotive vehicle comprising: initiating a build cycle, after the build cycle, initiating a release cycle (ABS system Column 1, lines 41-53); and determining one of an absolutely grounded, possibly grounded, an absolutely lifted or possibly lifted condition during one of the build cycle or the release cycle (figure 1, Column 2, lines 44-63 wherein the absolutely grounded condition is determined if there is no roll-over/lifting suspicion, the possible conditions are determined during the step of roll-over suspicion, the absolutely lifted occurs when the system has determined a wheel is lifted, Column 2, lines 11-26).

15. **(Claim 30)** Semsey discloses a method of controlling an automotive vehicle comprising: initiating an antilock brake monitor mode having a release cycle (Column 1, lines 41-53); determining a change in wheel speed (the speed is changed when the wheel is locked, Column 1, lines 45-53); and determining a wheel lift or wheel grounded

Art Unit: 3661

condition in response to the change in wheel speed (Column 1, lines 45-53 and Column 2, lines 11-26, when the wheel is locked it is determined that the wheel is lifted, whereas when the wheel is not locked at the application of the ABS, the wheel is determined to be grounded).

16. **(Claim 32)** Semsey further discloses wherein determining wheel lift comprises determining a absolutely lifted, possibly grounded, or absolutely grounded condition in response to the antilock brake monitor mode (figure 1, Column 2, lines 44-63 wherein the absolutely grounded condition is determined if there is no roll-over/lifting suspicion, the possible conditions are determined during the step of roll-over suspicion, the absolutely lifted occurs when the system has determined a wheel is lifted, Column 2, lines 11-26).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Semsey in view of Schramm et al, US Patent No. 6,272,420.

Semsey discloses the method previously discussed but does not disclose that the wheel lift is further determined based on wheel slip. However, Schramm et al. does teach the determination of wheel slip (Column 7, lines 39-47); and determining a wheel

Art Unit: 3661

lift condition in response to wheel slip and wheel speed (Column 7, lines 39-47 and Column 8, lines 22-27).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of Semsey with the teachings of Schramm et al. because using the wheel slip values of that individual wheel to determine if the wheel is lifted would make the determination more accurate and reduce the number of false alarms due to the wheel being locked because of slipping instead of lifting.

Allowable Subject Matter

18. **Claims 3, 4, and 31** are objected to as being dependent upon a rejected base claim and are at present considered to overcome the prior art of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

19. **Claims 8-26, 28 and 29** are at present considered allowable.

Conclusion

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine M. Behncke whose telephone number is (571) 272-8103. The examiner can normally be reached on Monday - Friday 8:30 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone

Art Unit: 3661

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

04-05-2005


THOMAS G. BLACK
SUPERVISORY PATENT EXAMINER
GROUP 7604